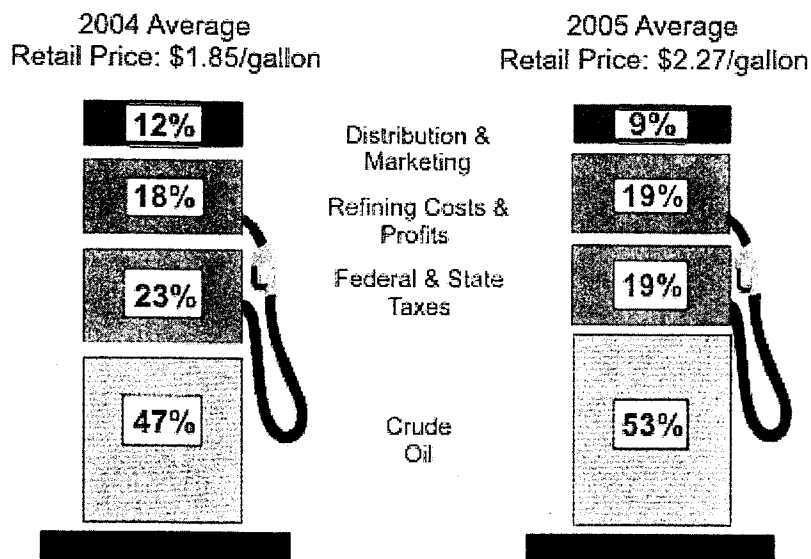


SENATE JUDICIARY  
Exhibit No. 2  
Date 9 JAN 07  
EIN No. 67

Ronna Alexander  
449-4133

Figure 1. What Do We Pay For in a Gallon of Regular Grade?



Source: Energy Information Administration, Washington, DC

### WHY DO GASOLINE PRICES FLUCTUATE?

Even when crude oil prices are stable, gasoline prices normally fluctuate due to factors such as seasonality and local retail station competition. Additionally, gasoline prices can change rapidly due to crude oil supply disruptions stemming from world events, or domestic problems such as refinery or pipeline outages.

**Seasonality in the demand for gasoline** - When crude oil prices are stable, retail gasoline prices tend to gradually rise before and during the summer, when people drive more, and fall in the winter. Good weather and vacations cause U.S. summer gasoline demand to average about 5 percent higher than during the rest of the year. If crude oil prices remain unchanged, gasoline prices would typically increase by 10-20 cents from January to the summer.

### Factors Behind the Increase in Gasoline Prices Since 2005

Since the beginning of 2005, U.S. retail gasoline prices have been generally increasing, with the average price of regular gasoline rising from \$1.78 per gallon on January 3 to as high as \$3.07 per gallon on September 5, as Hurricane Katrina further tightened gasoline supplies. But the hurricane is only one factor, albeit a dramatic one, which has caused gasoline prices to rise in 2005.

A major factor influencing gasoline prices in 2005 was the increase in crude oil prices. The price of West Texas Intermediate (WTI) crude oil, which started the year at about \$42 per barrel, reached \$70 per barrel in early September. Crude oil prices rose throughout 2004 and 2005, as global oil demand increased dramatically, stretching capacity along the entire oil market system, from crude oil production to transportation (tankers and pipelines) to refinery capacity, nearly to its limits. With minimal spare capacity in the face of the potential for significant supply disruptions from numerous sources, oil prices were high throughout 2005.

In addition, Hurricane Katrina had a devastating impact on U.S. gasoline markets, initially taking out more than 25 percent of U.S. crude oil production and 10-15 percent of U.S. refinery capacity. On top of that, major oil pipelines that feed the Midwest and the East Coast from the Gulf of Mexico area were shut down or forced to operate at reduced rates for a significant period. With such a large drop in supply, prices spiked dramatically. Because two pipelines that carry gasoline were down initially, some stations actually ran out of gasoline temporarily. However, once the pipelines were restored to full capacity and some of the refineries were restarted, retail prices began to fall. Increased gasoline imports in the fall of 2005, in part stemming from the International Energy Agency's emergency release, also added downward pressure to gasoline prices. However, retail prices are likely to remain elevated as long as some refineries remain shut down and the U.S. gasoline market continues to stretch supplies to their limit.

<sup>1</sup>National Petroleum News, May 2005.

<sup>2</sup>Energy Information Administration, *Petroleum Marketing Monthly* April 2006, Table EN1 at: [http://www.iea.doe.gov/pub/oil\\_gas/petroleum/data\\_publications/petroleum\\_marketing\\_monthly/current/pdf/enote.pdf](http://www.iea.doe.gov/pub/oil_gas/petroleum/data_publications/petroleum_marketing_monthly/current/pdf/enote.pdf)

CONOCO & CENEX Diesel and Gas Prices Effective										
8:00 PM 9/19 through 5:59 PM 9/20										
MRC & SINCLAIR Diesel and Gas Prices Effective										
6:00 PM 9/19 through 5:59 PM 9/20										
CHANGES:										
Exxon	Missoula	DIESEL UP .0202							9/20/2005	
Exxon	Helena	DIESEL UP .0202								
Exxon	Great Falls	DIESEL UP .0202								
Conoco	Missoula	DIESEL UP .1000, GAS UP .1500								
Conoco	Helena	DIESEL UP .1000, GAS UP .1500								
Conoco	Great Falls	DIESEL UP .1000, GAS UP .1500								
Conoco	Bozeman	DIESEL UP .1000, GAS UP .1500								
Sinclair	Missoula	DIESEL UP .1000, GAS UP .1500								
Sinclair	Helena	DIESEL UP .1000, GAS UP .1500								
Sinclair	Great Falls	DIESEL UP .1000, GAS UP .1500								
Mont. Refining	Missoula	DIESEL UP .1000, GAS UP .1200								
Mont. Refining	Helena	DIESEL UP .1000, GAS UP .1200								
Mont. Refining	Great Falls	DIESEL UP .1000, GAS UP .1200								
Cenex	Missoula	DIESEL UP .0800, GAS UP .1200								
Cenex	Great Falls	DIESEL UP .0800, GAS UP .1200								
Cenex	Bozeman	N/A								
Montana Rack Pricing										
Product	Missoula	Helena	Great Falls	Missoula	Helena	Great Falls	Bozeman	Missoula	Great Falls	Bozeman
UNLEADED	2.1370	2.1165	2.1115	2.2875	2.2670	2.2620	2.2720	2.2350	2.2150	0.0000
MIDGRADE				2.3575	2.3370	2.3320	2.3420			
PREMIUM	2.2770	2.2665	2.2515	2.4275	2.4070	2.4020	2.4120	2.3750	2.3550	0.0000
#1 DIESEL	2.4346	2.4446	2.3597	2.6000	2.5700	2.5450	2.5400	2.5050	2.4400	
#1 DSL DYED	2.4346	2.4446	2.3597	2.6050	2.5750	2.5500	2.5450	2.4750	2.4100	
#2 DIESEL	2.3346	2.3046	2.2797	2.4200	2.3800	2.3650	2.3600	2.3550	2.2900	0.0000
#2 DSL DYED	2.3396	2.3096	2.2847	2.3900	2.3600	2.3350	2.3300	2.3250	2.2600	0.0000
EXXON Diesel Prices Effective										
6:00 PM 9/19 through 5:59 PM 9/20										
Product	Helena	Great Falls	Missoula	Missoula	Helena	Missoula	Great Falls	Helena	Great Falls	Bozeman
UNLEADED	2.2645	2.2565	2.2820	0.0000	2.2870	2.2965	2.2820	2.2150		
PREMIUM	2.4095	2.4015	2.4270	0.0000	2.4070	2.4365	2.4020	2.3550		
#1 DIESEL	2.4860	2.4565	2.5370		2.5245	2.5635	2.5065	2.4750		
#2 DIESEL	2.3860	2.3565	2.4370		2.3545	2.3935	2.3365	2.3250		
#2 DSL DYED								2.2950		
MONTANA TAXES										
Gas										

x - Price based on actual loaded blending ratio



CONOCO & GENEX Diesel and Gas Prices Effective 6:00 PM 8/28 through 5:59 PM 8/29 MRC & SINGLAIR Diesel and Gas Prices Effective 6:00 PM 8/28 through 5:59 PM 8/29									
CHANGES:									
Exxon	Missoula	DIESEL UP .0300	GAS UP .0300						
Exxon	Helena	DIESEL UP .0300	GAS UP .0300						
Exxon	Great Falls	DIESEL UP .0300	GAS UP .0300						
Conoco	Missoula	DIESEL UP .1000	GAS UP .1000						
Conoco	Helena	DIESEL UP .1000	GAS UP .1000						
Conoco	Great Falls	DIESEL UP .1000	GAS UP .1000						
Conoco	Bozeman	DIESEL UP .1000	GAS UP .1000						
Singair	Missoula	DIESEL UP .0500	GAS UP .0500						
Singair	Helena	DIESEL UP .0500	GAS UP .0500						
Singair	Great Falls	DIESEL UP .0500	GAS UP .0500						
Mont. Refining	Missoula	DIESEL UP .1000	GAS UP .1000						
Mont. Refining	Helena	DIESEL UP .1000	GAS UP .1000						
Mont. Refining	Great Falls	DIESEL UP .1000	GAS UP .1000						
Canex	Missoula	DIESEL UP .0800	GAS UP .0800						
Canex	Great Falls	DIESEL UP .0800	GAS UP .0800						
Canex	Bozeman	N/A							
A									
Product	Missoula	Helena	Great Falls	Missoula	Helena	Great Falls	Bozeman	Missoula	Great Falls
UNLEADED	2.3675	2.3470	2.3420	2.4675	2.4470	2.4420	2.4570	2.4100	2.4000
MIDGRADE				2.5375	2.5170	2.5120	2.5220		
PREMIUM	2.5075	2.4870	2.4820	2.6075	2.5870	2.5820	2.5920	2.5500	2.5400
#1 DIESEL	2.5644	2.5744	2.4895	2.8000	2.7700	2.7450	2.7300	2.6600	2.6300
#1 DSL DYED	2.5644	2.5744	2.4895	2.8050	2.7750	2.7500	2.7350	2.6300	2.6000
#2 DIESEL	2.4644	2.4344	2.4085	2.6200	2.5900	2.5650	2.5500	2.5100	2.4800
#2 DSL DYED	2.4694	2.4394	2.4145	2.5900	2.5600	2.5350	2.5200	2.4800	2.4500
E									
Product	Helena	Great Falls	Missoula	Missoula	Helena	Missoula	Great Falls	Helena	Gas
UNLEADED	2.4545	2.4485	2.4720	0.0000	2.3970	2.4285	2.3920	2.4000	State 0.2700 Federal 0.1840 STCF 0.0075 Total 0.4615
PREMIUM	2.5995	2.5915	2.6170	0.0000	2.6370	2.5665	2.5320	2.5400	Diesel 0.2775 Federal 0.2440 STCF 0.0075 Total 0.5280
#1 DIESEL	2.7160	2.6865	2.7570		2.7045	2.7435	2.6865	2.6300	
#2 DIESEL	2.6160	2.5865	2.6670		2.6345	2.6735	2.6165	2.4800	
#2 DSL DYED								2.4500	
D									
Product	Helena	Great Falls	Missoula	Missoula	Helena	Missoula	Great Falls	Helena	Gas
UNLEADED	2.4545	2.4485	2.4720	0.0000	2.3970	2.4285	2.3920	2.4000	State 0.2700 Federal 0.1840 STCF 0.0075 Total 0.4615
PREMIUM	2.5995	2.5915	2.6170	0.0000	2.6370	2.5665	2.5320	2.5400	Diesel 0.2775 Federal 0.2440 STCF 0.0075 Total 0.5280
#1 DIESEL	2.7160	2.6865	2.7570		2.7045	2.7435	2.6865	2.6300	
#2 DIESEL	2.6160	2.5865	2.6670		2.6345	2.6735	2.6165	2.4800	
#2 DSL DYED								2.4500	
C									
Product	Missoula	Helena	Great Falls	Missoula	Helena	Great Falls	Bozeman	Missoula	Great Falls
UNLEADED	2.3675	2.3470	2.3420	2.4675	2.4470	2.4420	2.4570	2.4100	2.4000
MIDGRADE				2.5375	2.5170	2.5120	2.5220		
PREMIUM	2.5075	2.4870	2.4820	2.6075	2.5870	2.5820	2.5920	2.5500	2.5400
#1 DIESEL	2.5644	2.5744	2.4895	2.8000	2.7700	2.7450	2.7300	2.6600	2.6300
#1 DSL DYED	2.5644	2.5744	2.4895	2.8050	2.7750	2.7500	2.7350	2.6300	2.6000
#2 DIESEL	2.4644	2.4344	2.4085	2.6200	2.5900	2.5650	2.5500	2.5100	2.4800
#2 DSL DYED	2.4694	2.4394	2.4145	2.5900	2.5600	2.5350	2.5200	2.4800	2.4500
B									
Product	Missoula	Helena	Great Falls	Missoula	Helena	Great Falls	Bozeman	Missoula	Great Falls
UNLEADED	2.3675	2.3470	2.3420	2.4675	2.4470	2.4420	2.4570	2.4100	2.4000
MIDGRADE				2.5375	2.5170	2.5120	2.5220		
PREMIUM	2.5075	2.4870	2.4820	2.6075	2.5870	2.5820	2.5920	2.5500	2.5400
#1 DIESEL	2.5644	2.5744	2.4895	2.8000	2.7700	2.7450	2.7300	2.6600	2.6300
#1 DSL DYED	2.5644	2.5744	2.4895	2.8050	2.7750	2.7500	2.7350	2.6300	2.6000
#2 DIESEL	2.4644	2.4344	2.4085	2.6200	2.5900	2.5650	2.5500	2.5100	2.4800
#2 DSL DYED	2.4694	2.4394	2.4145	2.5900	2.5600	2.5350	2.5200	2.4800	2.4500
A									
Product	Missoula	Helena	Great Falls	Missoula	Helena	Great Falls	Bozeman	Missoula	Great Falls
UNLEADED	2.3675	2.3470	2.3420	2.4675	2.4470	2.4420	2.4570	2.4100	2.4000
MIDGRADE				2.5375	2.5170	2.5120	2.5220		
PREMIUM	2.5075	2.4870	2.4820	2.6075	2.5870	2.5820	2.5920	2.5500	2.5400
#1 DIESEL	2.5644	2.5744	2.4895	2.8000	2.7700	2.7450	2.7300	2.6600	2.6300
#1 DSL DYED	2.5644	2.5744	2.4895	2.8050	2.7750	2.7500	2.7350	2.6300	2.6000
#2 DIESEL	2.4644	2.4344	2.4085	2.6200	2.5900	2.5650	2.5500	2.5100	2.4800
#2 DSL DYED	2.4694	2.4394	2.4145	2.5900	2.5600	2.5350	2.5200	2.4800	2.4500
E									
Product	Helena	Great Falls	Missoula	Missoula	Helena	Missoula	Great Falls	Helena	Gas
UNLEADED	2.4545	2.4485	2.4720	0.0000	2.3970	2.4285	2.3920	2.4000	State 0.2700 Federal 0.1840 STCF 0.0075 Total 0.4615
PREMIUM	2.5995	2.5915	2.6170	0.0000	2.6370	2.5665	2.5320	2.5400	Diesel 0.2775 Federal 0.2440 STCF 0.0075 Total 0.5280
#1 DIESEL	2.7160	2.6865	2.7570		2.7045	2.7435	2.6865	2.6300	
#2 DIESEL	2.6160	2.5865	2.6670		2.6345	2.6735	2.6165	2.4800	
#2 DSL DYED								2.4500	

x - Price based on actual loaded blending ratio

NOTE: Oxygenated Gas 7.8% Blend - Federal Tax is \$.104

Montana Taxes

**COMOCO & GENEX Diesel and Gas Prices Effective**

**Montana Rack Pricing**

6:00 PM 9/23 through 5:59 PM 9/30  
 WEC & SINCLAIR Diesel and Gas Prices Effective  
 6:00 PM 9/23 through 5:59 PM 9/30

9/30/2005

**CHANGES:**

Exxon	Missoula	DIESEL UP .1000, GAS UP .1000							
Exxon	Helena	DIESEL UP .1000, GAS UP .1000							
Exxon	Great Falls	DIESEL UP .1000, GAS UP .1000							
Conoco	Missoula	DIESEL DOWN .0800, GAS DOWN .0600							
Conoco	Helena	DIESEL DOWN .0800, GAS DOWN .0600							
Conoco	Great Falls	DIESEL DOWN .0800, GAS DOWN .0600							
Conoco	Bozeman	DIESEL DOWN .0800, GAS DOWN .0600							
Sinclair	Missoula	DIESEL DOWN .0500, GAS DOWN .0100							
Sinclair	Helena	DIESEL DOWN .0500, GAS DOWN .0100							
Sinclair	Great Falls	DIESEL DOWN .0500, GAS DOWN .0100							
Mont. Refining	Missoula	DIESEL DOWN .0800, GAS DOWN .0600							
Mont. Refining	Helena	DIESEL DOWN .0800, GAS DOWN .0600							
Mont. Refining	Great Falls	DIESEL DOWN .0800, GAS DOWN .0600							
Genex	Missoula	DIESEL DOWN .0500							
Genex	Great Falls	DIESEL DOWN .0500							
Genex	Bozeman	DIESEL DOWN .0500							

Product	Missoula	Helena	Great Falls	Missoula	Helena	Great Falls	Bozeman	Missoula	Great Falls	Bozeman
UNLEADED	2.4675	2.4470	2.4420	2.4075	2.3870	2.3820	2.3920	2.4100	2.4000	0.0000
MIDGRADE				2.4775	2.4570	2.4520	2.4620			
PREMIUM	2.5075	2.5870	2.5820	2.5475	2.5270	2.5220	2.5320	2.5500	2.5400	0.0000
#1 DIESEL	2.6644	2.6744	2.5995	2.7200	2.6900	2.6650	2.6600	2.6100	2.5900	
#1 DSL DYED	2.6644	2.6744	2.5995	2.7250	2.6950	2.6700	2.6550	2.5800	2.5500	
#2 DIESEL	2.5644	2.5344	2.5095	2.5400	2.5100	2.4950	2.4700	2.4600	2.4300	0.0000
#2 DSL DYED	2.5694	2.5394	2.5145	2.5100	2.4800	2.4550	2.4400	2.4300	2.4000	0.0000

**Montana Taxes**

Product	Helena	Great Falls	Missoula	Missoula	Helena	Missoula	Great Falls	Helena	State	Federal	STCF	Total	Diesel
UNLEADED	2.3945	2.3865	2.4120	0.0000	2.3870	2.4065	2.3820	2.4000	0.2700	0.1840	0.0075	0.4615	
PREMIUM	2.5395	2.5315	2.5570	0.0000	2.5270	2.5495	2.5220	2.5400					
#1 DIESEL	2.6360	2.6065	2.6870		2.6545	2.6835	2.6385	2.5800					
#2 DIESEL	2.5360	2.5065	2.5870		2.4845	2.5235	2.4685	2.4300					
#2 DSL DYED								2.4000					

X - Price based on actual loaded blending ratio

NOTE: Oxygenated Gas 7.8% Blend - Federal Tax is \$.184

CONCLUSIONS OF FTC INVESTIGATION OF GASOLINE PRICE  
MANIPULATION AND POST-KATRINA PRICE INCREASES

<http://www.ftc.gov/reports/060518PublicGasolinePricesInvestigationReportFinal.pdf>

The investigation was ordered by Congress in 2005. The final report was issued in the spring of 2006.

Summary prepared by Montana Petroleum Marketers and Convenience Stores Association (1/9/07)

Summary statements followed by cites to page number in report.

- The investigation did not produce evidence that oil companies reduced inventory in order to manipulate prices or exacerbate the effects of price spikes due to supply disruptions. (viii).
- Refining capacity has remained at competitive levels and the refining industry remains relatively unconcentrated, leading to the conclusion that unilateral or coordinated attempts among refiners to manipulate prices was unlikely. (16-20).
- The investigation also revealed no evidence of price manipulation at the refining level. (20).
- The investigation concluded that current regulation and competition provide constraints on pipeline owners' ability to engage in anticompetitive conduct. (30).
- The investigation found very limited potential for firms to manipulate gasoline prices by exploiting infrastructure constraints in pipelines, marine vessels, or product terminals. (43).
- The investigation found no evidence that firms have made inventory decisions in order to manipulate prices. (49).
- The post-Katrina and Rita gasoline price increases were roughly in line with increases predicted by a standard supply and demand model of a competitive market. (62).
- Katrina forced a loss of U.S. refining capacity of 13%; Rita forced a loss of U.S. refining capacity of over 26%. (63-4).
- Nationally, the increase in gasoline prices after the hurricanes resulted from this dramatic reduction in supply. (66).
- In analyzing the reduction in supply caused by the hurricanes, the investigation projected that gasoline prices should have increased more in September and October 2005 than actually occurred. (67).
- The Mountain states had a sizeable price increase after Katrina, but (in prior weeks) had been below, by an unusual amount, the predicted price. (71, 97, 104-5).
- Changes in the cost to supply different regions of the country as a result of the hurricanes appear to explain much, if not all, of the gasoline price increases in the East Coast, Midwest, and Gulf Coast. (71-2).

- The investigation found no evidence of either an explicit agreement or tacit understanding among gasoline wholesalers to restrict output and increase prices in the aftermath of Katrina—the evidence was inconsistent with a collusion hypothesis. (103).
- Post-Katrina, gasoline retailers were uncertain about when and at what price they would obtain their next supplies. Some were facing rapidly dwindling inventories. Further, demand was highly uncertain due to unexpected panic buying. (107).
- Some of the highest gasoline prices following the hurricanes occurred when stations were running out of supplies, were uncertain about when they would be re-supplied or at what price, were trying to ration their dwindling inventory, or were trying to curtail panic buying. (110).
- One national retailer closed its stations in Florida because the firm could not afford to re-supply the stations without either selling gasoline at a loss or risking that it would violate the state's anti-gouging laws. (110).
- Cost-related factors explain at least the vast majority of the increase in average wholesale and retail prices that occurred after Katrina. (113).
- If gasoline prices are constrained at an artificial level for any reason, the economy will work inefficiently and consumers will suffer. Any type of price cap, including a constraint on raising prices in an emergency, risks discouraging the kind of behavior necessary to alleviate the imbalance of supply and demand. A temporary price cap may have an especially adverse effect on incentives as producers withhold supply in order to wait for the end of the cap. The result may be long gasoline lines and shortages. (183-4).
- Current antitrust laws are not designed to prevent prices from increasing; rather, they are designed to prevent firms from using market power to raise prices artificially. (185).
- The current state and federal antitrust laws protect consumers from abuse by single-firm conduct such as the illegal maintenance or acquisition of monopoly power. (188).
- Collusive action to charge higher prices may also be prosecuted under existing antitrust laws, whether the activity occurred during a period of emergency or not. (189).
- There is one outstanding example of collusion in the petroleum industry: OPEC (Organization of Petroleum Exporting Countries). OPEC's collusive activities in setting production quotas would be illegal if undertaken by private companies. (185).
- During the supply disruptions caused by the hurricanes, the wholesale costs of gasoline spiked sharply due to the severe shortages, so that retailers anticipated paying substantially more for their next shipment of gasoline. Thus, even though retailers were selling gasoline that already was in their tanks (and already paid for), they increased their retail prices based on anticipated higher replacement costs. Other station owners, however, stated their belief that they would run out of gasoline quickly if they did not raise their prices when their retail competitors did. With limited supply available, retailers had to choose either to run out of product or to raise prices. (195).

- Higher prices create incentives for suppliers to send more product into the market, while also creating incentives for consumers to use less of the product. If such pricing signals are not present or are distorted by legislative or regulatory command, markets may not function efficiently and consumers may be worse off. (196).
- The Commission's examination of gasoline price gouging legislation and enforcement efforts indicates that the offense of price gouging is difficult to define. This lack of consensus on which conduct should be proscribed could yield to legislation that would leave businesses with little guidance on how to comply and would run counter to consumers' best interest. (196).
- The Commission could not conclude that price gouging legislation would produce a net benefit for consumers. If legislation is passed, it should clearly define the offense of price gouging, account for increased costs, including anticipated costs, and provide considerations for local, national, and international market conditions that may be a factor in a tight supply situation. (196-7).
- The Commission concluded that holding prices too low for too long in the face of temporary supply problems risks distorting the price signal that ultimately will restore supply and demand balance. If supply responses and the market-clearing price are not considered, wholesalers and retailers will run out of gasoline and consumers will be worse off. Supply and demand forces are the ultimate drivers of prices to consumers. (197-8).
- The concurring statement of Commissioner Jon Leibowitz concluded that the vast majority of retailers raised prices after the hurricanes based on what they paid for supply or in anticipation of increased replacement costs. "If there is any villain in the long lasting saga of high oil prices, though, it is OPEC." However, OPEC is not the only reason for the recent steep climb in prices, other contributing factors include: increased demand in China and India, complicated environmental requirements, and American over-dependence on both foreign oil sources and fuel-inefficient automobiles. "But OPEC's permissible price fixing will surely continue to bedevil American businesses and consumers well into the future." Commissioner Leibowitz concluded, "Petroleum industry pricing and gas price manipulation are enormously complicated matters—ones not subject to simple explanation, even absent the disruptive effects of a major natural disaster." (2-3).

**The Federal Trade Commission (or FTC) is an independent agency of the United States government, established in 1914. Its role is to promote consumer protection by eliminating and preventing anticompetitive business practices.**

**The FTC is headed by five Commissioners, who are nominated by the President and confirmed by the Senate. Under the FTC Act, no more than three Commissioners may be from the same political party.**